

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

*** DOCKET NO. 2021-4739-ETHICS-A**

IN THE MATTER OF

JOSHUA HAJIAKBARFINI

*** AGENCY TRACKING NO. 5121-055**

DECISION AND ORDER

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, requested an adjudicatory hearing to have the Ethics Adjudicatory Board determine whether Joshua Hajiakbarfini failed to file his 2020 supplemental campaign finance disclosure report by the eleventh day after it was due, in connection with his 2019 candidacy for the office of State Representative, District 68. The Louisiana Board of Ethics proved by clear and convincing evidence that Joshua Hajiakbarfini failed to file the report as alleged. The Louisiana Board of Ethics is authorized to impose an additional civil penalty not to exceed \$10,000 against Joshua Hajiakbarfini pursuant to Louisiana Revised Statutes 18:1505.4(A)(4)(b).

APPEARANCES

The adjudicatory hearing was conducted on November 4, 2021, in Baton Rouge, Louisiana, before Panel A of the Ethics Adjudicatory Board.¹ Charles E. Reeves, Jr., appeared as counsel on behalf of the Louisiana Board of Ethics. Though properly noticed, Joshua Hajiakbarfini did not appear for the hearing.²

¹ The panel consisted of administrative law judges Sherlyn D. Shumpert (presiding), A. Brock Avery, and Lance B. Vinson.

² On August 12, 2021, the *Conference Report and Order* setting this matter for hearing and Division of Administrative Law correspondence notifying Mr. Hajiakbarfini of the hearing date and time were mailed by DAL's Administrative Hearings Clerk to his last known address. See BOE-11.

JURISDICTIONAL AUTHORITY

The Ethics Adjudicatory Board (EAB) is a legislatively created board, as contemplated by Article X, Section 21 of the Louisiana Constitution. The EAB has original jurisdiction under Louisiana Revised Statutes (La. R.S.) 42:1141.5 to determine whether violations of the Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, have occurred and to conduct hearings under La. R.S. 18:1505.4 for specific violations of the Campaign Finance Disclosure Act (CFDA), La. R.S. 18:1481, *et seq.*

This adjudication is conducted in accordance with the CFDA, the Code of Governmental Ethics, the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and La. R.S. 49:991, *et seq.*, and the enabling legislation of the Division of Administrative Law, La. R.S. 49:991, *et seq.*

STATEMENT OF THE CASE

In connection with his 2019 candidacy for the office of State Representative, District 68, the Louisiana Board of Ethics (BOE), in its capacity as the Supervisory Committee on Campaign Finance Disclosure, assessed a civil penalty against Joshua Hajiakbarfini (Respondent) for failing to file his 2020 supplemental campaign finance disclosure report by the eleventh day after it was due, which may subject him to an additional civil penalty not to exceed \$10,000, pursuant to La. R.S. 18:1505.4(A)(4)(b).

Counsel for the BOE offered twelve exhibits during the hearing, which were admitted into evidence. Counsel presented the case on behalf of the BOE, after which the record was closed, and the matter taken under advisement.

FINDINGS OF FACT

- 1) Respondent qualified as a candidate for office of State Representative, District 68, in the

October 12, 2019, primary election.³ Respondent did not receive enough votes in the primary election to qualify to participate in the November 16, 2019, general election.⁴

- 2) When he qualified as a candidate in the October 12, 2019, primary election, Respondent acknowledged that he was subject to the provisions of the CFDA.⁵
- 3) In connection with the October 12, 2019, primary election, Respondent reported a surplus in the amount of \$561.16 and a deficit in the amount of \$65,700.⁶
- 4) Respondent's supplemental campaign finance disclosure report covering the 2020 calendar year was due on February 17, 2021.⁷
- 5) Respondent did not file his supplemental campaign finance disclosure report covering the 2020 calendar year by the February 17, 2021, deadline or by February 28, 2021, the eleventh day after it was due.⁸
- 6) The BOE served Respondent with the *Request for Hearing* on July 15, 2021.⁹

CONCLUSIONS OF LAW

Respondent knowingly failed to file his supplemental campaign finance disclosure report for the 2020 calendar year by the eleventh day after it was due. For this failure, the BOE is authorized to impose an additional civil penalty against Respondent as allowed by La. R.S. 18:1505.4(A)(4)(b).

Adjudicatory hearings under La. R.S. 18:1505.4(A)(4)(a) and (b) cover two kinds of campaign finance disclosure reports candidates must file in connection with elections. La. R.S.

³ BOE-2 (Secretary of State: candidate qualification verification for Respondent), p. 1.

⁴ See BOE-3 (Secretary of State: *Official Results*), p. 9.

⁵ See BOE-2 (*State of Louisiana – Notice of Candidacy (Qualifying Form)*), p. 3.

⁶ BOE-6 (February 27, 2020, *Candidate's Report*), pp. 3 and 5.

⁷ See BOE-4 (*Schedule of Reporting and Filing Dates for Candidates & PACs Supporting or Opposing Candidates*), p. 1.

⁸ BOE-8 (May 21, 2021, *Late Fee Assessment Order*).

⁹ See BOE-5, p. 13.

18:1505.4(A)(4)(a) addresses reports that candidates must file between the time the candidate qualified for the election and the election day. La. R.S. 18:1505.4(A)(4)(b) addresses “other reports” candidates must file in connection with elections that fall outside the time frame in the previous provision. In either case, the BOE must prove by clear and convincing evidence¹⁰ that the candidate knowingly¹¹ failed to file a required report within the six days or eleven days, respectively, following the date it was due.

Respondent was a candidate for office of State Representative, District 68, in the October 12, 2019, primary election. Every candidate (or his campaign treasurer) is required to file certain campaign finance disclosure reports by the statutory deadlines.¹² Failure to timely submit required reports constitutes a violation of the CFDA.¹³

Respondent reported a deficit in the amount of \$65,700 in connection with the October 12, 2019, primary election. Because he reported a deficit in excess of \$2,500, Respondent was required to report his deficit and surplus annually on supplemental campaign finance disclosure reports for five years or until a report has been filed which shows no deficit or surplus.¹⁴ Respondent’s campaign finance disclosure report covering the 2020 calendar year was due on February 17, 2021.¹⁵ Respondent did not file his supplemental campaign finance disclosure report covering the 2020 calendar year by the February 17, 2021, deadline or by February 28, 2021, the

¹⁰ See La. R.S. 42:1141.5(C). “‘Clear and convincing evidence,’ in general, means that the fact of guilt must be proven to a greater degree than by ‘a mere preponderance of the evidence’ but less than by ‘beyond a reasonable doubt. The standard requires that the existence of the disputed fact be [h]ighly probable, that is, much more probable than its non-existence.’” *Louisiana State Bar Ass’n v. Edwins*, 329 So. 2d 437, 442 (La. 1976) (internal citations omitted).

¹¹ La. R.S. 18:1505.4(A)(1).

¹² La. R.S. 18:1495.4(A).

¹³ La. R.S. 18:1505.1(B).

¹⁴ See La. R.S. 18:1495.4(D)(3)(a).

¹⁵ Each supplemental campaign finance disclosure report “shall be filed annually no later than February fifteenth and shall be complete through the preceding December thirty-first.” La. R.S. 18:1495.4(D)(3)(a). Although the statute indicates the deadline should have been February 15, 2021, the BOE provided Respondent with a deadline of February 17, 2021. See BOE-4.

eleventh day after it was due.

If, after conducting an adjudicatory hearing, the EAB determines that Respondent knowingly failed to file a required campaign finance disclosure report within the applicable time period, then the BOE may impose an additional civil penalty not to exceed \$10,000 against Respondent for each report that he failed to timely file.¹⁶ Failure to file a required report within three days after the final date for filing creates a rebuttable presumption of intent to not file the report.¹⁷ Nothing in evidence rebuts this statutory presumption.

With the benefit of the unrebutted statutory presumption of intent not to file, the BOE proved by clear and convincing evidence that Respondent knowingly violated the CFDA by failing to file his supplemental campaign finance disclosure report covering the 2020 calendar year by February 28, 2021, the eleventh day after it was due. As a result, the BOE is authorized to impose an additional civil penalty of up to \$10,000 as allowed by La. R.S. 18:1505.4(A)(4)(b).

¹⁶ La. R.S. 18:1505.4(A)(4).

¹⁷ La. R.S. 18:1505.1(A).

ORDER

IT IS ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed \$10,000 against Joshua Hajiakbarfini for failing to file his supplemental campaign finance disclosure report covering the 2020 calendar year by the eleventh day after it was due.

Rendered and signed on December 16, 2021, in Baton Rouge, Louisiana.

Sherlyn D. Shumpert

Sherlyn D. Shumpert
Presiding Administrative Law Judge
Ethics Adjudicatory Board - Panel A
Division of Administrative Law

AB Avery

A. Brock Avery
Administrative Law Judge
Ethics Adjudicatory Board - Panel A
Division of Administrative Law

Lance B. Vinson

Lance B. Vinson
Administrative Law Judge
Ethics Adjudicatory Board - Panel A
Division of Administrative Law

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Friday, December 17, 2021, I have sent a copy of
this decision/order to all parties of this matter.

Clerk of Court
Division of Administrative Law

REVIEW RIGHTS

Requests for rehearing, reopening, or reconsideration are subject to the procedures, timing requirements, and legal grounds provided in La. R.S. 49:959, with the time for filing calculated pursuant to Louisiana Code of Civil Procedure (La. C.C.P.) article 5059. To determine your review rights, you should act promptly.

To request rehearing, reopening, or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.la.gov

FAX documents to:
(225) 219-9820

MAIL documents to:
DAL – EAB Section
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request rehearing of your decision or your rehearing request is denied, you may have the right to seek judicial review in accordance with La. R.S. 42:1142(A)(1), with the time for requesting judicial review calculated pursuant to La. C.C.P. art 5059. To determine your review rights, you should act promptly.